

LEGISLATIVE COUNCIL

(Constituted under the British Guiana
(Constitution) (Temporary Provisions)
Order in Council, 1953).

THURSDAY, 24TH JANUARY, 1957.

The Council met at 2 p.m.

PRESENT:

His Honour the Speaker,
Sir Eustace Gordon Woolford, O.B.E.
Q.C.

Ex-Officio Members:

The Hon. the Chief Secretary,
Mr. F. D. Jakeway, C.M.G., O.B.E.

The Hon. the Attorney General,
Mr. G. M. Farnum (Ag.)

The Hon. the Financial Secretary,
Mr. F. W. Essex.

Nominated Members of Executive Council:

The Hon. Sir Frank McDavid,
C.M.G., C.B.E. (Member for Agriculture,
Forests, Lands and Mines).

The Hon. W. O. R. Kendall (Member
for Communications and Works).

The Hon. G. A. C. Farnum, O.B.E.
(Member for Local Government, Social
Welfare and Co-operative Development).

The Hon. R. C. Tello

Nominated Official

Mr. J. I. Ramphal

Nominated Unofficials:

Mr. T. Lee

Mr. L. A. Luckhoo, Q.C.

Mr. C. A. Carter

Mr. E. F. Correia

Rev. D. C. J. Bobb

Mr. H. Rahaman

Miss Gertie H. Collins

Mrs. Esther E. Dey

Dr. H. A. Fraser

Mr. R. B. Jailal

Mr. Sugrim Singh

Mr. W. T. Lord, I.S.O.

Clerk of the Legislature—

Mr. I. Crum Ewing.

Assistant Clerk of the Legislature—

Mr. B. M. Viapree (Ag.)

Absent:

The Hon. P. A. Cummings (Member
for Labour, Health and Housing)
—on leave.

The Hon. R. B. Gajraj — on leave.

Mr. W. A. Phang—on leave.

The Speaker read prayers.

The Minutes of the meeting of the
Council held on Thursday, the 10th of
January, 1957, as printed and circu-
lated, were taken as read and con-
firmed.

ANNOUNCEMENTS

Leave of Absence

Mr. Speaker: I have to announce that leave has been granted to the hon. Member for Labour, Health and Housing, Mr. Cummings, for 14 days from the 16th January to the 30th January, and to the hon. Member, Mr. Gajraj, from the 19th January to the 11th February, both of whom are in Jamaica attending the Federation Conference.

Papers Laid

Sir Frank McDavid (Member for Agriculture, Forests, Lands and Mines): laid on the table the following document —

“Annual Report of the Director of Agriculture for the year 1955.”

UNOFFICIAL NOTICES

Rice Farmers (Security of Tenure) Ordinance

Mr. Luckhoo: I beg to give notice of the following motion, a copy of which I have handed to the Clerk—

“Whereas there is widespread dissatisfaction by rice farmers in this Colony who are experiencing great hardship consequent upon the operation of the Rice Farmers (Security of Tenure) Ordinance of 1956 (No. 31); and

Whereas the said rice farmers are in need of immediate relief from the operation of the provisions of the said Ordinance:

“Be it resolved: That this Honourable Council recommends to Government —

- (a) That the operation of the Rice Farmers (Security of Tenure) Ordinance of 1956 (No. 31) be suspended forthwith; and
- (b) That a Committee be appointed immediately to enquire into and report upon the working of the said Ordinance and its effect generally on tenants and landlords.”

ORAL QUESTIONS

Rice Farmers' Plight in Mahaica-Mahaicony

Mr. Luckhoo: I beg to ask the hon. Member for Agriculture, Forests, Lands and Mines the following questions listed in my name on the Supplementary Order Paper —

- (1)—What is Government doing to relieve the grave hardship and plight of farmers in the Mahaica and Mahaicony Creeks due to the flooding of these creeks?
- (2)—Whether Government would waive the agistment fees for animals rescued from floods and taken to Cane Grove Land Settlement?

Sir Frank McDavid: In reply to Question 1, may I say that Government has requested the acting Director of Agriculture to investigate and report on the condition as a result of flooding during the recent period of heavy rainfall. Upon receipt of this report there will be consideration of what relief, if any, can be given.

With respect to the second question the answer is in the affirmative.

Mr. Luckhoo: I am grateful for that, especially the reply to the second question.

Introduction of Bills

The Financial Secretary: I beg to give notice of the introduction and first reading of the Public Loan Ordinance 1945 (Transfer to Development Fund) Bill, 1957.

Mr. Farnum (Member for Local Government, Social Welfare and Co-operative Development): I beg to give notice of the introduction and first reading of the Local Government (Amendment) Bill, 1957.

Death of the Earl of Athlone

Mr. Luckhoo: Before the Order of the Day is proceeded with I crave leave to move the suspension of the Standing Orders so that I may move a resolution concerning which I have given intimation to Your Honour the Speaker. It is a resolution of sympathy in connection with the death of the Earl of Athlone.

Question put, and agreed to.

Relevant Standing Orders suspended.

Mr. Luckhoo: I am sure that all Members of the community in general are very grieved to learn of the passing of the Earl of Athlone, who together with his wife, Princess Alice, visited this Colony a few years ago. We recall with deep affection their visit to this country, and I recall vividly his speaking in the Town Hall of his pleasure in visiting this City of Georgetown and referring to it as a 'City of Delight'. His good wife, Princess Alice, is very closely associated with the Caribbean, and in her capacity of Chancellor of the University College of the West Indies she has identified herself very closely with matters affecting our welfare. I feel sure that Members join with me in this resolution which I wish to move to this effect.

"That this Council places on record its deep regret at the death of the Earl of Athlone and requests that an expression of its profound sorrow and sympathy be conveyed to his wife, Her Royal Highness Princess Alice, Countess of Athlone."

Rev. Mr. Bobb: I rise to second that resolution. Princess Alice has indeed close connection with Caribbean affairs, and, as the hon. Mover has said, particularly in relation to the University College of the West In-

dies and, therefore, the death of her husband must come as a great blow to us, and our sympathy and regret must be duly recorded. The fact of that death may even interfere with the normal plans of the University College for the next month or so, because my understanding is it was proposed that an invitation be extended to Princess Alice — it may have already gone to her — to go to the College next month and to be present at the presentation of graduates, something long appointed by the Council but arranged for 1957. It would appear that on account of her loss it may be difficult, if not impossible, for her to be present.

I think it is very fitting for us in British Guiana to express through this resolution of this honourable Council our very profound sympathy at this loss which she has suffered and a similar expression of sympathy with the University College of the West Indies on the loss their Chancellor has sustained making her at the moment so grieved. I am sure that there are many people who re-echo our expression of sympathy here. She has in many ways endeared herself to the University College and is held in very high esteem and regard by all those who have anything to do with the University College. Therefore I join in this expression of sympathy and formally second the resolution.

Mr. Speaker: Does any other Member wish to speak on the motion?

We may also take note of the recent death of Princess Marie Louise, the oldest member of the Royal Family, who visited this Colony in a very informal way many years ago.

Motion put and carried, members standing.

ORDER OF THE DAY

Bills—First Reading

The following Bills were read the first time:

A Bill intituled "An Ordinance to provide for the transfer of the unexpended portion of the loan raised under the Public Loan Ordinance, 1945, to the credit of the Development Fund,

A Bill intituled "An Ordinance further to amend the Local Government Ordinance."

REPRESENTATION OF THE PEOPLE BILL

Resumption of consideration of a Bill intituled:

"An Ordinance to make provision for the election of Members of the Legislative Council and for purposes connected therewith."

Mr. Speaker: Council was in Committee when this item was deferred on the last occasion. I do not know if anyone else wishes to speak on the principle of the Bill, otherwise we will go back into Committee on the item.

COUNCIL IN COMMITTEE

Council resolved itself into Committee to consider the Bill clause by clause.

Clause 1—*Short title.*

The Chief Secretary: I beg to move that this clause be amended by the substitution of the figures '1957' for '1956'.

Question put, and agreed to.

Clause 1 passed as amended.

Clause 2—*Interpretation.*

The Chief Secretary: At the very end of this clause which defines 'Legislative Council' there appear the words.

"...amending or replacing in British Guiana (Constitution) (Temporary Provisions) Order in Council, 1953."

I beg to move that those words be deleted and there be substituted therefor the words:

'For the time being in force in the Colony.'

This amendment has been circulated to Members. The paragraph will then read:

"the Legislative Council' means the Legislative Council of British Guiana containing elected members constituted by any Order of Her Majesty in Council for the time being in force in the Colony."

The effect of that will be to give this legislation validity for any Order in Council and not a specific Order in Council.

Question put, and agreed to.

Clause 2 passed as amended.

Clauses 3 and 4 passed as printed.

Clause 5—*Returning Officers.*

The Chief Secretary: It is considered that subclause (2) should be amended so that provision may be made for the appointment of deputy returning officers. At the moment there can be only a single deputy. The amendment will be:

- (a) the deletion of the word "a" in the first line and of the word "the" in the second line; and
- (b) the substitution for the words "person" and "officer" in the second line of the words "persons" and "officers" respectively.

The subclause will then read:

"The Governor may from time to time appoint fit and proper persons to be deputy returning officers of each electoral district . . ."

Question put, and agreed to.

Clause 5 passed as amended.

Clause 6 passed as printed.

Clause 7—*Presiding officers and assistant presiding officers.*

The Chief Secretary: In the debate on the second reading one Member made the point that great care should be taken in the choice of presiding officers. To meet that point more fully than it is covered in this clause at the moment it is proposed that the appointment of a presiding officer should be made subject to the approval of the Commissioner of Elections, thus supplying additional assurance that only incontestably impartial persons should be appointed. It is proposed that after the word "election" in the second line of subclause (1), the words "and with the approval of the Commissioner of Elections" should be inserted. The subclause will then read:

"The returning officer of every electoral district shall on the occasion of any contested election, and with the approval of the Commissioner of Elections, appoint a presiding officer and an assistant presiding officer for each polling-place in his district."

Question put, and agreed to.

Clause 7 passed as amended.

Clauses 8 to 17 passed as printed.

Clause 18—*Delivery by candidate of declaration of his qualification.*

Mr. Lee: I think I shall deal with my first amendment first. After the word "candidate" —

The Chief Secretary: Sir, I have an amendment to clause 18 as well. I do not know whether the hon. Member will allow me to move my amendment now: he will see if it meets with his approval or not.

Mr. Lee: I have sent my amendment to the hon. the Chief Secretary.

The Chairman: He hopes you will be satisfied with his.

The Chief Secretary: If I understand rightly, the hon. Member had two points in connection with clause 18. One was, that there should be a period between nomination and the fulfilling of various requirements such as the making of a statutory declaration and the making of a deposit, so that should for any reason a candidate not be able to fulfil these requirements immediately, time would be given to him. We have very carefully considered that, but it is difficult to meet it in the way the hon. Member suggests, namely, by a delay of 48 hours. The time allowed between nomination and polling is short already and clearly it ought to be as short as possible having regard to the fact that there must be a time for candidates to go around their districts. At the same time one does not want to prolong the period between nomination and polling. A very long period is undesirable, particularly when one bears in mind that the Legislative Council has to be dissolved before elections and the territory is left without a law-making body for some time. It means everything will be held up for 48 hours.

I think that provided the presiding officer is empowered to witness the statutory declaration and provided the Member is aware that he is being nominated (it is inconceivable that any candidate can be nominated and not know of it) it does not seem necessary that there should be a delay of 48 hours. It is so provided that the presiding officer is authorized to receive the statutory declaration. If a Justice of the Peace or a Commissioner of Oaths is not easily found, then there will be some difficulty. If that is so, then I wish to leave the third reading of the Bill until later to satisfy myself that this is the position. But if the circumstances are normal and a presiding officer can take the statutory declaration, then I see no reason for a delay of 48 hours.

[The Chief Secretary]

Where a candidate is unavoidably absent at the time of his nomination, he should authorize an agent to carry out the necessary requirements, like the statutory declaration, for him. There seems to be merit in that proposal, and there is precedent for it in Trinidad where the procedure is followed whereby if a candidate is nominated and he is out of the Colony, although he could have made the declaration before he left, he is not prevented from standing. So it is on that point that we would like to amend subclause (1), by the deletion of that subclause as it stands and the substitution therefor:

“(1) Every candidate nominated at an election shall before the hour of eleven in the forenoon of the day on which the nominations were received deliver or cause to be delivered to the returning officer either personally or to his clerk at his office a statutory declaration of his qualifications made and subscribed by such candidate or, if the candidate is absent from the Colony on nomination day, by his duly authorized agent, in the form set out as Form No. 10 or Form No. 10A, as the case may be, in the first schedule.”

That will involve the inclusion of an additional form in the schedule, the insertion of which I will move at the proper time. I hope the hon. Member (Mr. Lee) will accept the insertion of this additional clause, with the provision that we will allow the presiding officer to take the statutory declaration (of a candidate).

Mr. Lee: There is provision in the Bill to allow a presiding officer to take the statutory declaration of a candidate and in urging my further point I am being guided by experience. It has been found that the presiding officer might not be present; and on one occasion within my knowledge in the past we had to hire a launch and travel all the way from Bartica to Parika where the declaration was

returned. The past Legislature, in its wisdom, stated in section 18(1) of the Ordinance, Chap. 66, that:

“Every candidate nominated at any election of a Member of the House of Assembly shall, at the time of nomination, or within forty-eight hours after the hour of eleven in the forenoon of the day on which the nominations were received, deliver or cause to be delivered, to the returning officer either personally or to his office, a statutory declaration made and subscribed by such candidate of his qualification made before a Commissioner of Oaths or a Justice of the Peace in the form set out as Form No. 6 in the first schedule to this Ordinance.”

I will accept the other words contained in the amendment proposed by the Chief Secretary, but I want to point out that there are several things which might prevent a candidate from being present at the time of nomination. Let us assume that the Essequibo River constituency included the Rupununi district and that the law provides that the nominations should be held at Bartica and somehow or other, a candidate misses the boat which should take him to the Rupununi; what then is he to do? There would be other ways of catching up with the opportunity lost (through the steamer's departure) if the amendment I propose is adopted. I repeat that the Ordinance should be so amended as to meet such an emergency. We should also consider such a possibility as where a candidate, after nomination, might tender a cheque by way of his deposit to the presiding officer and it might be refused.

The Chairman: The Ordinance says that it must be “legal tender.”

Mr. Lee: I am only thinking of instances that might occur (to cause delay). Let us give a candidate—and he might be the people's choice—the fullest possible chance to be nominated. One never knows what circumstance might occur to upset such

a candidate under the law as it stands at present, and I am urging that the section, (18) (1), be amended as I have suggested.

The Chief Secretary: I shall be grateful if the hon. Member (Mr. Lee) will show me where it is stated in the law that a presiding officer has power to receive a statutory declaration from a candidate. I should like to know in which section that has been provided.

Mr. Lee: I will look it up and tell the hon. Member in a minute.

The Chairman: It is shown that the statutory declaration may be handed.

The Chief Secretary: It is stated (in section 18) that a statutory declaration shall be made before a Commissioner of Oaths or a Justice of the Peace.

The Chairman: Sub clause 18 (3) states:

“(3) After an election, the returning officer shall forward to the Clerk of the House of Assembly the statutory declaration or declarations of the candidate or candidates.”

The Chief Secretary: The point could easily be settled by making the returning officer a Justice of the Peace.

The Chairman: A returning officer, as such, is not permitted to receive a statutory declaration. There is usually a Commissioner of Oaths before whom the candidate might appear and swear to a statutory declaration. Would the hon. Member (Mr. Lee) mind explaining what the term “legal tender” means? I think it means “cash”. A presiding officer will never refuse cash. A candidate might be a

man with a lot of money, but if he tenders a cheque (as his deposit) I do not think it would be considered as “legal tender”. I remember that on one occasion a candidate turned up late for nomination and there was a great deal of delay over this question.

Sir Frank McDavid: Under sub-clause (2) the deposit is supposed to be “legal tender”, and I do not know that a candidate can send to the returning officer a cheque.

The Chairman: We cannot provide otherwise, even if the hon. Member (Mr. Lee) thinks his amendment is desirable.

Mr. Lee: I would certainly like the amendment to be put — that all these things should be done within 48 hours after nomination.

The Chief Secretary: I am not prepared to accept that, Sir. I cannot see that anything the hon. Member has said necessitates it. The one instance in which there was a delay was due to the fact that the statutory declaration could not be taken by the presiding officer. We are now endeavouring to provide against that — so that the statutory declaration would not be made without the knowledge of the presiding officer. Every candidate is entitled to be present or to have an agent present to act on his behalf in the event of nomination. It is true that the hon. Member's situation did exist in 1953, but I do not think it exists anywhere else in the law as it stands today. Government's objection is not a frivolous one, and there is already provision for a candidate (or his agent) to be present at nomination. If the amendment suggested by the hon. Member (Mr. Lee) is adopted, it would mean that two days would be wasted through this unnecessary provision.

Mr. Lee: My objection is such a strong one that I must ask the Council to vote on it. Government was satisfied before the 1953 elections that certain things might occur, and I am seeking an amendment of the law that is now in force. I appreciate Government's point of view in the matter but I cannot help pressing the amendment. I should like to know why Government has decided to change the existing law now. There must have been something responsible for such a step, but I repeat that experience has shown that a "break" of 48 hours, as stated in my amendment, is requisite.

The Chairman: I am going to put the question. I do not know if it would assist the hon. Member. The hon. Member may take the chance.

Mr. Lee: Yes, Your Honour.

The Chairman: If the statutory declaration is not received by the Returning Officer within forty-eight hours the nomination is null and void.

The Chief Secretary: If the amendment proposed by the hon. Member is accepted what would happen is this: the Returning Officer would receive nominations and hold everything up for forty-eight hours so as to give everyone the statutory time to file his or her statutory declaration; then, he would summon everyone to come together two days later to draw for symbols. The symbols cannot be issued until it is known who are the candidates. Until persons make the statutory declaration they are not candidates. The whole procedure is going to be held up, for two days. Under the law as proposed that will all be done at one time.

Mr. Lee: The symbols are to be individual symbols when the candidate makes his declaration he can then be given his symbol. He has not to choose it himself.

The Chief Secretary: Certainly the candidate has to draw his symbol.

Mr. Luckhoo: The hon. Member wants to err on the point of care. If he approaches the matter from the point of view that the candidates would be responsible individuals who, knowing that they are going to be nominated would see that their papers are in order, it is quite easy for them to prepare their nomination papers at the same time with the statement of declaration of qualification. It would save, perhaps, the embarrassment of putting it off and subsequently finding it is under a limitation of time. The point the hon. member is bringing to bear is that the people have become accustomed to the old procedure and may labour under that delusion. But that can be easily cured by it being forcibly pointed out to them that these things must be done at one and the same time. I feel that my hon. friend on reflection would agree.

Mr. Lee: Am I to understand from the hon. the Chief Secretary that the symbols are to be chosen by the candidates?

The Chief Secretary: The method of choosing the symbols will be prescribed by Regulations. They will probably be chosen by ballot at the time of nomination. The symbols may be put in a hat and the candidates draw one each. That can only be done when it is known the persons who are candidates. The loss of two days is quite important in a period of 25 days between nomination and polling. Those 25 days are chosen as the shortest period in which a number of procedures have to be carried out, one of which is the printing of the ballot papers. We have to do that at once and not wait two days after nomination for it to be done.

Mr. Lee: Am I to understand that Government has decided not to allow party symbols? If Government has so decided then it is an individual election of independent candidates. Then on

the one hand Government is saying "I am advocating the party system," and on the other hand Government is saying "At the time of nomination candidates will draw by ballot or otherwise their symbols."? When the symbol is chosen then it has to be broadcast around in the particular constituency. Do you know what it would mean in the Essequibo River constituency which stretches from Wakenaam to Venezuela and Brazil. Can you broadcast your symbol throughout that area in 25 days? It cannot be done, but if you belong to a Party with a symbol, that Party would to a certain extent make its symbol known throughout the Colony. Take Mr. Luckhoo's Party the National Labour Front —

The Chief Secretary: Is this relevant to the clause we are dealing with?

Mr. Lee: I withdraw it. If this 48 hours' respite is given to candidates they would be able to do many things. If Government does not want it and the Members of this Council do not think that the wisdom of those people who passed the old law is good enough, let them throw it out.

Mr. Luckhoo: The hon. Member has gone on to a different point, that of a party symbol. That is something I agree with him, and on that score I would like to say I am with him.

The Chairman: We are discussing the period of time. The hon. Member's objection is that on the same occasion of the nomination the candidate should be able to have his statutory declaration made. Do you not think he should go there with his statutory declaration? Why should a man be so careless as not to look up the law and see what he is required to do?

Mr. Lee: On the last occasion at the nominations for the Essequibo Islands Electoral District, I was assisting one candidate up to five minutes before the closing time to prepare his papers and his statutory declaration. I am not saying that any candidate should go to the nominations unprepared.

The Chairman: Why should extra time be given candidates?

Mr. Lee: Forty-eight hours were given in the wisdom of the last Legislature to any candidate for the purpose of his declaration as well as for his deposit. But here you are required to go to the nomination with your declaration and \$240:—, so that as soon as nominations are closed you hand them in. If you fail to do that within the time for the nominations and the time has passed you are nowhere.

The Chairman: Does anyone wish to speak on the amendment? **Mr. Lee,** our amendment is to the clause as it stands.

Mr. Lee: Yes, Your Honour. I am accepting the hon. the Chief Secretary's amendment.

The Chairman: I am going to put your amendment.

Mr. Ramphal: I do not know what it is.

Mr. Lee: The clause should read:

"Every candidate nominated at an election shall at the time of nomination or within forty-eight hours after deliver or cause to deliver . . ."

It is very simple and is the old law.

Mr. Lee's amendment put, and the Committee divided and voted as follows:—

For: *Against*

Mr. Lee—1. Mr. Lord
Mr. Singh
Mr. Jaisal
Dr. Fraser
Mrs. Dey
Miss Collins
Mr. Rahaman
Rev. Mr. Bobb
Mr. Correia
Mr. Carter
Mr. Luckhoo
Mr. Ramphal
Mr. Tello
Mr. Farnum
Mr. Kendall
Sir Frank McDavid.
The Chief Secretary—17.

Amendment negatived.

Clause as amended by the Chief Secretary put, and agreed to.

Clause passed as amended.

Clauses 19 to 27 passed as printed.

Clause 28—*Place and manner of voting as elector.*

The Chief Secretary: Subclause (2) of clause 28 at the moment allows any person whose name appears in the official list for any polling division in any electoral district to vote other than at a specified polling station. But it is possible there may be occasions when it is desirable to apply that provision not only to one particular polling division but to a group of polling divisions, and for that purpose it is proposed that subclause (2) of this clause be amended by inserting after the words "polling division" in the sixth line the words "or group of polling divisions", and at the end of the clause after the word "division" the words "or group of polling divisions" as the case may be.

Question put, and agreed to.

Clause passed as amended.

Clause 30. — *Where transferred elector to vote.*

The Chief Secretary: There is a small amendment to subclause (2). I

move that at the beginning of the fifth line, before the word "which" the word "to" should be added; so it would read:

"... at any polling-place other than that to which such a person's name has been transferred . . ."

Question put, and agreed to.

Clause 30 passed as amended.

Clauses 31 and 32 passed as printed.

Clause 33.—*Taking of poll and the ballot.*

Mr. Correia: Subclause (3) reads:

"Each ballot paper shall have a number printed on the back and shall have attached to it a counterfoil with the same number printed on the face and there shall be a line of perforations between the ballot paper and the counterfoil, the whole as in the form set out as Form No. 17 in the first schedule."

I maintain that in this case the ballot will not be secret. If other Members wish to accept this provision, then let them do so, but I will still say it is not secret. The number of the ballot paper will appear on the counterfoil as well as on the back of the ballot paper—Form No. 17. It is easy for a presiding officer to check on a voter if he gives him, say, ballot paper No. 12 and he marks "12" against his name on the voters list.

The Chairman: The hon. Member is a Nominated Member, but he may have attended at election time the counting of votes. The ballot boxes come in. They are opened for the votes to be counted. The first thing the officials do is to see if the mark of the returning officer appears on the ballot papers. The agents of the candidates are there to keep a check and to see how many voted at any one station, or if there is not a correct number on the ballot paper. Does the hon. Member think they will spot some

particular ballot paper number while all these things are being done?

Mr. Correia: Yes, Sir. Very easily, if they are looking for it. I am not, however, asking for an amendment. If other Members want the provision to stand as it is, I will accept it.

The Chairman: You are saying, in effect, that we may find a returning officer so interested in the election that he is going to spot how voters voted.

Mr. Correia: I am not asking for an amendment. I am drawing attention to the matter.

Mr. Carter: My objection to the ballot-paper lies in its size. If we are to accept what we have been shown as the specimen size we will find that in some constituencies where say, 8 or 10 candidates are contesting a seat much difficulty will arise because of the small size of the ballot-paper where it concerns the illiterate voter.

The Chairman: I think myself that in the absence of specific symbols it would be difficult, unless the names could be arranged alphabetically. I do not think the hon. Member can produce a substitute because the ballot-paper is of a specific size and it cannot be reduced.

But what we were considering was the possibility of the identification of the voter. A returning officer may be able to spot a fan, but why should we suppose he would want to do that? I think Mr. Correia should think about that. I do not feel we should think about the returning officer as being so corrupt in mind that he would want to spot a voter.

Mr. Correia: Sir, I will withdraw my remarks.

Mr. Rampñal: I think Mr. Correia will agree that if we devise any system at all it can never be foolproof against someone who wants to find out something.

Question put, and agreed to.

Clause 33 passed as printed.

Clause 34.—*General mode of taking ballot.*

The Chief Secretary: I have a small amendment to subclause (3) which is perfectly clear. I move that after the word "name" in the third line the words "and symbol" be inserted.

The Chairman: Where is Mr. Lee?

Mr. Luckhoo: He has gone to court, Your Honour, and he left me with his brief. (*Laughter*). The point Mr. Lee had been making and one which I accept and endorse that one should encourage as far as possible the use of symbols for parties, since one feels that the party system is here to stay and the day of the independent candidate is over. If there can be introduced a system whereby a party may use the same symbol at all of the several elections one can appreciate the ease with which voters who are illiterate would be able to vote for the party of his choice. I think the day has arrived when a person will follow a particular party rather than a particular personality or individual. The hon. Member (Mr. Lee) who is not here said he intends to make representations towards the making of regulations in this respect.

Mr. Correia: I agree with the system of party symbols, but a party may not be able to draw a symbol that would be recognized by voters in every district. I remember during the last general elections my party had a symbol but I nevertheless had to draw

[Mr. Correia]

my own symbol because some of my voters did not understand my party symbol. The Amerindian voter would quicker recognize a bow and arrow, a canoe or an aeroplane.

The Chief Secretary: I have covered this point in some detail in my speech on the second reading, which some Members here did not hear as they were not present on that occasion. I quite allow that this is not covered in the law at the moment, but it will be covered in the Regulations in this Bill, which will provide for symbols on an individual and not a party basis.

I invite the attention of Members to the strictures passed by the Robertson Commission on the overweening influence of symbols at the last general elections. A symbol is to identify a candidate. That is the whole purpose of it. If some voters were not illiterate, symbols would not exist at all. These symbols are not intended to assist or un-assist the party system: they are merely intended to make the illiterate person distinguish the candidate for whom he is voting. If he wants to vote for a person he can vote for a person, but if he wants to vote for a party he can vote for a party. He is perfectly free to vote for a party. If you put a symbol for a party, you are, in effect, guiding the voting in favour of a party system.

I feel the party system should be allowed to grow naturally and not be pushed by symbols — which is what we would be doing for the local party system if we allocate party symbols. I may mention that in Jamaica and Trinidad no symbols are attached to parties but to the candidates, and in neither of those places can it be said that the party system has been handicapped by that method; in fact it is extremely flourishing.

Question put, and agreed to.

Clause 34 passed as amended,

Clauses 35 to 41 passed as printed.

Clause 42—*Proceedings after poll.*

Mr. Correia: This clause sets out, among other things, the conditions under which the returning officer shall reject ballot papers at an election and some of these conditions appear in subclause (3) which reads:

“(3) A ballot paper on which the vote is marked —

(a) elsewhere than in the proper place; or

(b) other than by means of a cross; or

(c) by more than one mark.....”

My view is that there should be a cross or a tick indicating the name of the candidate for whom the voter intended to cast his vote, because a voter might put his finger in some ink accidentally and might smudge the ballot paper, thereby putting more than one mark on it. I am referring particularly to an Amerindian who does not know well how to write, and my view is that if he smudges a ballot paper it should not be rejected merely on that account. There should be a tick or a cross on the ballot paper.

Mr. Ramphal: I take it that the over-riding principle in the matter is that once the intention of the voter is indicated that should be sufficient.

Mr. Correia: There must be a cross on the ballot paper (according to subclause (3) (b))

The Chief Secretary: Putting a mark other than a cross on the ballot paper would not be contrary to the law. The law says (in sub-clause (3)) that:

“(3) A ballot paper on which the vote is marked —

(a) elsewhere than in the proper place; or

(b) otherwise than by means of a cross; or

(c) by more than one mark, shall not by reason thereof be rejected if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the elector and it is not shown that he can be identified thereby."

Mr. Correia: That seems to be correct, Sir.

Mr Carter: Sub-clause (2) indicates that the presiding officer may instruct an elector how and where to affix his mark on a ballot paper.

The Chairman: That is so.

Clause 42, passed as printed.

Clauses 43 to 46 passed as printed.

Clause 47—*Election agent of candidate.*

Mr. Luckhoo : Subclause (i) states:

"(1) On or before the day of nomination, each candidate at an election shall give notice in writing to the returning officer appointing either himself or some other person as his election agent and specifying an address within the electoral district to which all claims, notices, writs, summonses and documents may be sent."

I should like to move the insertion of the words "or his duly constituted attorney" between the words "candidate" and "at" (in the first line) and I think the amendment will be a useful one.

The Chief Secretary: I think that is possible but I would not like to accept the amendment now. May we leave that clause until later, because we have to come back into Committee. I think it would be dangerous to try and amend it without reflection,

Clause 47 deferred.

Clauses 48 to 51 passed as printed.

Clause 52—*Personal expenses of candidate and party expenses.*

The Chairman: Would the hon. Member (Mr. Correia) like to move his amendment now?

Mr. Correia: No, Sir, I think it will be at clause 53.

Mr. Luckhoo: The hon. Mr. Lee, whose papers I hold, pointed out in Finance Committee that the amount fixed as personal expenses for a candidate, instead of being \$200, should be \$500; and that the amount of \$200 fixed for "any further personal expenses" should be increased to \$500 in view of the increased cost of living and so on.

The Chairman: Is the hon. Member (Mr. Luckhoo) speaking on behalf of Mr. Lee?

Mr. Luckhoo: Yes, Sir; and I am adopting his suggestion (for an amendment).

Mr. Correia: I am supporting that.

The Chief Secretary: When we come to clause 53, I intend to say that if it is the general view of Members that there should be an increase in the election expenses allowed in that clause Government would not object to that. I would be in favour of "three hundred dollars" being substituted for "two hundred dollars" (in the third line of subclause (1) if the figure in clause 53 is also in mind. I suggest we take both clauses together.

Question put, and agreed to .

Clause 52, as amended, passed.

[The Chief Secretary]

Clause 53 — *Maximum expenses allowed.*

The Chief Secretary: I am in favour of the sum “one thousand dollars” mentioned in subclause (1) being increased to \$1,500.

Mr. Luckhoo: I agree that the amounts stated in clause 53 should also be jacked up. What should be borne in mind is that these constituencies are now much larger than they were formerly. I think the hon. Member (Mr. Correia) said that they extend right up to the Venezuelan frontier. Those areas are now far apart, and I think that the sum of “two hundred dollars” (stated in sub-clause (2)) should be increased to “five hundred dollars.”

The Chief Secretary: I think that figure is a bit high. We have to consider the not-so-well-off candidates and not the better off candidates. Probably hon. Members have a better knowledge than I have of this question; however, and if it is the general view that the amount should be increased to \$500 I will agree.

Question put, and agreed to.

Clause 53, as amended passed.

Clauses 54 to 66 passed as printed.

Clause 67—*Illegal hiring etc. of vehicles and animals prohibited.*

Mr. Luckhoo: May I suggest for the purpose of clarification that this clause does not refer to private vehicles but only to those that are hired?

The Attorney General: That is

so; it refers particularly to hackney carriages—not private vehicles.

Mr. Luckhoo: A private car is allowed to be used.

Mr. Correia: This Bill does not mention the uses of launches private or otherwise, aeroplanes, private or otherwise. I think that should be embodied in it. We have to use launches and planes to get around in the interior. If the hon. mover would defer this clause until the third reading, we can go into it.

Mr. Luckhoo: I support that suggestion that this clause be deferred.

Mr. Carter: I think it would be better to leave that out.

Mr. Correia: I can have a private plane.

The Chairman: The hon. Member does not think the clause is sufficiently exhaustively worded. Have you anything in mind?

Mr. Sugrim Singh: May I refer the hon. Member to clause 67 (1)? It speaks of carriage.

The Chairman: A form of conveyance.

Mr. Correia: It says “hackney carriage”.

Mr. Luckhoo: I am asking that it be deferred.

The Chief Secretary: I am not quite sure what the point is.

Mr. Luckhoo: I do not know if hon. Members know of it. I do not think the clause is quite right as it stands—this limitation on the use of hire carriages. Do hon. Members want

Government to consider placing a limitation on the use of hire planes and submarines?

Mr. Correia: I am speaking of private planes.

The Chief Secretary: This clause does not deal with private vehicles at all.

The Chairman: Better leave it alone.

The Chief Secretary: We may just as well pass the clause and if by late examination it is found to be wrong, we can re-commit it.

The Chairman: We need not defer it. The hon. Mover will afford hon. Members an opportunity to make amendments before the third reading.

Mr. Correia: We would like it to be deferred until we decide as to what is "carriage", whether it includes private planes and launches. This clause was enacted in 1870 and was never amended since then.

Mr. Lord: Subclause (4) says: "In this section the expression "carriage" includes a mechanically propelled vehicle."

The Attorney General: It may assist us if the hon. Member says what he wants. If the clause were amended to prohibit the use of boats which are commonly let for hire, the supporters of candidates in certain constituencies would not be able to get to the polling stations. But you cannot use hire cars. As regards boats it would be very dangerous to make such a prohibition.

Mr. Luckhoo: If this is limited to cars it is perfectly acceptable. The danger is that one can read into the definition of "carriage" more than carriage.

Mr. Correia: We are trying to prevent election petitions and, therefore, we should not leave it open whereby there can be election petitions as the results of the wording of the clause, which we can fix properly here.

The Attorney General: Would the hon. Member be satisfied if we include specifically hire cars or boats?

Mr. Luckhoo: That is not improving the definition of "carriage".

The Attorney General: There is the difficulty that buses may have to be used.

The Chief Secretary: This is a word for word reproduction of the existing clause. I think we should be very careful about making any changes. If any hon. Member wishes a change to be made, I would consider it at a later stage. But I will not agree to a change at the moment.

The Chairman: I am going to put clause 67 as printed. Members will be given an opportunity at a later stage to suggest any amendment they desire.

Clauses 67 to 73 passed as printed.

Clause 74—*Certain acts to be illegal practices.*

The Chief Secretary: There is an omission in error in paragraph (d), between the words "withdrawal" and "at" in the second line should be the words "of a candidate".

Insertion put, and agreed to.

Clause passed as amended.

Clauses 75 to 92 passed as printed.

Clause 92—*Power to make Rules of Court.*

The Chairman : Rules of the Supreme Court.

The Chief Secretary: Under this clause Rules of Court can be made by the Supreme Court for the conduct of election petitions. I am going to move an amendment for the continuance in force of all existing Rules until the Supreme Court makes new Rules.

Clauses 92 to 113 passed as printed.

Clause 114—*Repeal.*

The Chief Secretary: I have an amendment to this clause, a copy of which has been circulated to hon. Members, adding a subclause. The existing provision as printed should be renumbered subclause (1) and the following added as subclause (2)—

“(2) Notwithstanding the provisions of subsection (1) of this section until such time as Rules of Court are made under this Ordinance the Rules of Court made on the 12th November, 1948, in exercise of the powers conferred by section 61 and section 93 of the Legislative Council (Elections) Ordinance, 1945, shall, *mutatis mutandis*, apply to matters arising under this Ordinance.”

The Chairman: Is there any objection to that?

Question put, and agreed to.

Clause passed as amended.

First Schedule

Forms Nos. 1 to 9 passed as printed.

Form No. 10 — *Statutory Declaration.*

The Chief Secretary: I beg to move that the words and brackets “(Commissioner of Oaths or Justice of the Peace)” at the end of the Form to be deleted. The purpose of that is to make sure that the presiding officer is authorised.

Question put, and agreed to.

Form No. 10—*Statutory Declaration of Agent.*

The Chief Secretary: I beg to move the insertion of a new Form 10A. It has not been circulated to Members, but it is in fact a repetition of Form 10 but a declaration of an agent, where the candidate himself is not making a declaration, on behalf of the candidate. It is titled “Statutory Declaration of agent of a person nominated as a candidate for election as a Member of the Legislative Council.”

Mr. Correia: I take it the amendment gives the candidate power to let his agent make a declaration for him.

The Chief Secretary: If the candidate is absent from the Colony.

The Speaker: The agent must be duly authorised by the candidate.

Question put and agreed to.

Forms No. 11 to 16 passed as printed.

Form No. 17—*Ballot Paper.*

The Chief Secretary: I have an amendment to Form No. 17. It is that the Form as circulated should be substituted for the Form as printed. The only difference is that the vertical and horizontal lines plus the X marks have disappeared in printing. So as to make it abundantly clear the Form is reprinted showing a place where the ballot paper should be marked.

The Chairman: Are hon. Members satisfied with that? We cannot do better.

Mr. Ramphal: Is the ballot paper bound to be of the size equal to this Form?

The Chief Secretary: There is no prescribed size.

The Chairman: Is there any objection to the ballot paper?

Question put, and agreed to.

Forms No. 18 to 21 passed as printed.

Form No. 22—*Poll Book*.

The Chief Secretary: I have an amendment to Form No. 22. At the head of the ninth column I wish to replace the first two words there with the words "Reason for". It will then read, "Reason for marking of ballot by friend or presiding officer."

Question put, and agreed to.

Form No. 22 passed as amended.

Second schedule.

The Chief Secretary: There is a consequential amendment to Part III: the words "one thousand dollars" in the last line should read "one thousand, five hundred dollars."

Question put, and agreed to.

Schedule as Amended passed.

The Chief Secretary: There is one clause unpassed, and there may be other little details to consider. I therefore suggest that the Bill be deferred at this stage for further consideration.

Question put, and agreed to.

Further consideration of Bill deferred.

Council resumed.

ADJOURNMENT

The Chief Secretary: I beg to move that Council do now adjourn until tomorrow. I do not think anybody else wishes to move anything else this afternoon.

Question put, and agreed to.

Council adjourned until Friday, 25th January, 1957.